

**FEDERAL ELECTION COMMISSION**

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**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

Audit Referral: 01-01

Audit Referral Date: January 10, 2001

Date Activated: February 27, 2001

Expiration of Statute of Limitations:

January 6, 2002 – December 7, 2003

Staff Member: Dawn R. Jackson

**SOURCE:**

**AUDIT REFERRAL**

**RESPONDENTS:**

Republican Party of Arkansas, and  
Lloyd E. Lindsey, as treasurer<sup>2</sup>  
Jennings Osborne  
Chelsey Pruet  
Rosalinda S. Winstead

**RELEVANT STATUTES  
AND REGULATIONS:**

2 U.S.C. § 437g(a)(5)(A)  
2 U.S.C. § 438(b)  
2 U.S.C. § 434(b)  
2 U.S.C. § 441a(a)(1)(C)  
2 U.S.C. § 441a(f)  
2 U.S.C. § 441b  
11 C.F.R. § 102.5  
11 C.F.R. § 103.3(b)(3)  
11 C.F.R. § 104.10(b)(4)  
11 C.F.R. § 106.5(g)  
11 C.F.R. § 110.1(b)(5)(ii)(B)  
11 C.F.R. § 110.1(k)(3)(ii)(B)

<sup>2</sup> Harry Dodge was the treasurer for the Republican Party of Arkansas from December 10, 1970 to August 3, 1999. Lloyd E. Lindsey has been treasurer of the Republican Party of Arkansas since August 3, 1999.

**INTERNAL REPORTS**                      Audit Documents  
**CHECKED:**

**FEDERAL AGENCIES**                      None  
**CHECKED:**

**I.     GENERATION OF THE MATTER**

On December 7, 2000, the Commission approved the Final Audit Report on the Republican Party of Arkansas ("Committee"). The audit was undertaken in accordance with 2 U.S.C. § 438(b). This matter was referred from the Audit Division to the Office of General Counsel for a possible compliance action. Attachment 1.

**II.    FACTUAL AND LEGAL ANALYSIS**

**A.    Receipt of Contributions in Excess of the Limitation**

No person shall make contributions to a political committee in any calendar year which, in the aggregate, exceed \$5,000: 2 U.S.C. § 441a(a)(1)(C). No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of 2 U.S.C. § 441a(f). The Audit staff found that the Committee accepted contributions from three individuals that exceeded the applicable contribution limitation in 2 U.S.C. § 441a(a)(1)(C) by a total of \$9,500.<sup>3</sup> Jennings Osborne ("Osborne")<sup>4</sup> made a contribution for \$10,000: Chelsey

<sup>3</sup> After an initial review of the Committee's receipt records, the Audit staff identified four contributions from four individuals which appeared to exceed the contribution limitations by \$59,500. There were two contributions from an individual deposited into a federal account in the amounts of \$5,000 and \$50,000. The Committee explained that the \$50,000 contribution from this individual was intended for the non-federal account, but had been inadvertently deposited into the federal account. In light of the Committee's explanation, the Audit staff reviewed the Committee's bank account for the period during which the \$50,000 remained in the Committee's federal account, and noticed that \$50,000 was immediately withdrawn from the federal account and deposited into the state account. The records also indicated that the Committee did not require the \$50,000 to meet its operating expenses. The Audit staff determined that the \$50,000 was deposited in error and was timely corrected. This Office agrees that this check was inadvertently deposited into the federal account and the problem was timely corrected. Therefore, the calculation for the amount remaining in excess of the contribution limitation is as follows: \$9,500 (\$9,500-\$50,000).

<sup>4</sup> Mitzi Osborne and Jennings Osborne are both accountholders on the check made payable to the Committee. However, there is only one signature on the check that appears to be Jennings Osborne. Attachment 2.

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Pruet ("Pruet") made three contributions totaling \$7,500. Rosalinda S. Winstead ("Winstead") made a contribution for \$7,000. Upon further clarification from the Audit staff, it appears that these contributions were not reattributed or redesignated within the 60-day periods permitted by 11 C.F.R. §§ 110.1(b)(5)(ii)(B) or 110.1(k)(3)(ii)(B). Nor were the contributions refunded within the 60-day period permitted by 11 C.F.R. § 103.3(b)(3).

The Audit staff provided the Committee with a schedule of the identified excessive contributions at the Exit Conference. In a written response, the Committee contends there is a reattribution letter in its file for one of the contributions. However, the Committee failed to provide a copy in its response.

The Committee also argues that Pruet's \$7,500 contribution was not excessive because \$5,000 of the contribution was deposited into the Committee's non-federal account. The Audit staff noted that the Committee deposited a \$5,000 check dated October 14, 1997 into its non-federal account from a contributor with the same last name as Pruet. However, the contribution in question was dated April 2, 1997. The Committee did not provide an explanation for the 6 month time difference between Pruet's April 2, 1997 contribution and the October 14, 1997 contribution. Therefore, this Office concludes that the October 14, 1997 deposit for \$5,000 was another contribution.

The Committee argues that Winstead's \$7,000 contribution was a joint contribution from two individuals. The Committee stated that a copy of the check with both signatures was enclosed. The Audit staff was unable to locate the copy of the check in the Committee's response. However, a copy of the check was obtained during fieldwork. The check had only one

<sup>5</sup> The Committee stamped the check as "entered" on April 7, 1997.

22-04-406-0512

signature, and was drawn on an account that names only one accountholder. Therefore, this  
Office believes that this contribution was from one individual.<sup>6</sup>

This Office also recommends that the Commission find reason to believe  
that Osborne, Pruet, and Winstead violated 2 U.S.C. § 441a(a)(1)(C) by making excessive  
contributions. However, given the small size of these contributions and in furtherance of the  
Commission's priorities and resources, this Office recommends that the Commission take no  
further action against these contributors and send admonishment letters. *See Heckler v. Cheney*,  
470 U.S.C. § 821 (1985).

<sup>6</sup> The Committee offered no defense or explanation with respect to the \$10,000 contribution made by Osborne.

IV. **RECOMMENDATIONS**

- 1.
- 2.
3. Find reason to believe that Jennings Osborne, Chelsey Pruet, and Rosalinda S. Winstead made excessive contributions to the Republican Party of Arkansas in violation of 2 U.S.C. § 441a(a)(1)(C), but take no further action, send admonishment letters, and close the file as it pertains to these respondents;
- 4.
- 5.
- 6.
- 7.
- 8.

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Audit Referral 01-01  
First General Counsel's Report

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Lawrence H. Norton  
General Counsel

Date

9/26/01

BY:   
Gregory R. Baker  
Acting Associate General Counsel

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